

BOARD OF PODIATRIC MEDICAL EXAMINERS
OPEN SESSION MEETING MINUTES
July 10, 2008
Room 108/109

The Open Session meeting of the Maryland Board of Podiatric Medical Examiners was held on Thursday, July 10, 2008 in Room 108/109, 4201 Patterson Avenue. The meeting was called to order at 1:27 p.m. by Vice-President Dr. David Freedman. Board members present were Drs. Ira Deming, Ira Gottlieb, Tanya Sellers-Hannibal, Dennis Weber and Mrs. Ernestine Jones Jolivet. Also present were Eva Schwartz, Executive Director, Richard Bloom, AAG, Board Counsel, Sally Reier, Administrative Officer, and Oladuni Akinpelu, Administrative Specialist. Guests present were Lynda Lardner-McGinnis, D.P.M., Maryland Podiatric Medical Association (MPMA) representative.

A. MINUTES:

The minutes from the June 12, 2008 meeting were reviewed and unanimously approved as submitted.

B. OLD BUSINESS:

1. Maryland Patient Referral Law – Informational

- *Display, Disclose and File, Topics* Newsletter Article from Gordon, Feinblatt, Rothman, Hoffberger & Hollander, LLC

The Board reviewed the aforementioned newsletter article which was provided for informational purposes. Staff was requested to provide the link to this newsletter to Dr. Lardner McGinnis.

2. StateStat Updates on Reporting

- (Working Draft only)

The Board reviewed the draft of the proposed StateStat reporting form and noted that once implemented, the data reporting will be completed monthly. Staff explained that the number of complaints reported to StateStat will no longer include the number of individual patient charts reviewed during a practice audit, as a separate reporting category has been created to capture this data. Staff advised the Board that this form is a working draft only and a final version of the document is expected to be released in the near future.

3. Review of Regulations – Proposed Fees

The Board reviewed the draft of the proposed regulations to amend Regulation .02 under COMAR 10.40.03 Collection of Fees. The Board noted that costs including network support, rent, and service hours for Administrative Prosecutors have increased necessitating this revision to the current fee schedule to ensure that future revenue will

meet the projected expenditure needs of the Board. Staff was requested to submit the proposed regulations requesting an increase in fees, to the Secretary of DHMH for approval and signature. Subsequent to the Secretary's approval and the Board Counsel's approval for legal sufficiency, the proposed regulations will be submitted by the Department to AELR.

Ms. Schwartz requested that a professional member of the Board be available to attend meeting(s) in Annapolis in front of AELR to explain and support the proposed fee increase.

4. Integrated Specialties - Professional Corporations

- Change of law required

The Board discussed that the law concerning professional corporations comprised of more than one specialty e.g. orthopedists (M.D.), and podiatrists (D.P.M.) is an older law. A newer law which does not have the same restrictions as the older law allows for professional relationships of integrated specialties formed as Limited Liability Corporations (LLC). The Board discussed that the older law would need to be changed and/or abolished to be consistent with the newer law. The Board identified that an interested party could pursue this matter as desired, and determined that no Board action would be initiated in this matter at this time.

C. NEW BUSINESS:

1. Inquiry from the Food & Drug Administration (FDA)

Regarding functions in podiatry for A Miniaturized Pulsed Electric Magnetic Non-Heating Diathermy Device

Ms. Schwartz informed the Board that an Investigator with the FDA contacted the Board via telephone inquiring if it is within the scope of practice for podiatrists in Maryland to treat the area under the eye. Ms. Schwartz referred the Investigator to the Maryland Podiatry Act which defines the scope of practice as follows:

“Practice podiatry” means to diagnose or surgically, medically, or mechanically treat the human foot or ankle, the anatomical structures that attach to the human foot, or the soft tissue below the mid-calf.

The Investigator related that the FDA is currently investigating A Miniaturized Pulsed Electro Magnetic Non-Heating Diathermy Device which is being marketed to podiatrists. The Investigator stated that the only FDA approved use for the device is for the treatment of edema following blepharoplasty and expressed concern that this device is being promoted and marketed to podiatrists for heel pain. As this matter is currently under investigation by the FDA, the Investigator did not identify a specific product or company.

The Board acknowledged receipt of this information and stated that podiatric treatment within the scope of practice is permissible with off label medical devices, with patient informed consent. The Board determined that no action was required at this time.

2. Rent Back Charges Assessed to the Boards

Ms. Schwartz expressed concern that the figures for the Board's rent have not been provided and remain unknown at this time. Ms. Schwartz identified that the Board's costs for building renovations and remodeling are also unknown. The Board acknowledged the aforementioned fiscal concerns and determined that no Board action is required at this time.

3. Newly Licensed Podiatrists – Added to the Agenda

Ms. Schwartz identified that the number of Active podiatrists in Maryland has been declining and that the number of applications for new licensure has also decreased. The Board discussed that there has been a decline in the number of doctors graduating from podiatry colleges. The cost of living in Maryland was identified as one factor that new podiatrists may consider when determining where to locate their practice.

Ms. Schwartz discussed that new licensees previously had the opportunity to meet and interact with Board members and staff when they attended the Jurisprudence Lecture and Exam. Ms. Schwartz identified that the opportunity to create a personal connection with new licensees was lost with the implementation of the online Jurisprudence Lecture and mailed Exam format.

The Board considered inviting new licensees to attend a reception and Open Board Meeting as a way of welcoming new podiatrists and creating a more personal connection with the Board. The Board tabled further discussion on this topic.

4. OTHER: Board Members

The second terms of Board members Dr. Ira M. Deming and Dr. Dennis M. Weber, D.P.M. are expiring. Dr. Lynda Lardner McGinnis informed the Board that the MPMA nominated four (4) podiatrists to fill the Board vacancies. Ms. Schwartz informed the Board of the appointment of Ms. Barbara Crosby, R.N. to the Board to fill the consumer member vacancy. The Board is hopeful that Ms. Crosby will be introduced to the Board at the September meeting.

With no further business, the meeting was adjourned at 2:10 p.m.

CLOSED SESSION: Pursuant to Maryland State Government Annotated "10-501 et seq." the Board unanimously approved a motion to close its meeting at 2:10 p.m., in room 108/109 for the purpose of complying with the Maryland Medical Practice Act that prevents public disclosures about particular proceedings or matters.

Respectfully submitted,

Ernestine Jones Jolivet, Secretary/Treasurer